proposed to eliminate, or, in the alternative, to modify the current Part 69 requirements. U S WEST urges the Commission to choose elimination.

Although many troublesome examples of the inefficiency of the current Part 69 process could be cited, suffice it to say that the process is broken and needs to be fixed. U S WEST currently has several Part 69 waivers pending at the Commission; the most recent were filed in July and September of 1995, and the longest pending was filed in December of 1994. It is unknown when U S WEST can expect resolution of these waiver requests;[22] this uncertainty makes it particularly difficult to plan for new services and frustrates U S WEST's customers who expect quick response to their needs.

If the Part 69 Rules existed by themselves and the Part 69 waiver process represented the only opportunity for interested parties and the Commission to review new service offerings, it might make sense to continue this cumbersome process for introducing new switched access rate elements. As the process exists today, however, the additional requirement of new service tariff approval renders the Part 69 waiver process wholly unnecessary. The Common Carrier Bureau ("Bureau") itself has recognized the chilling effect this rigid procedure can have on the introduction of new services: "[N]ew technologies challenge the static nature of

[22] The Commission's rules do not require that waiver requests be acted upon. Therefore, these waiver request may be either approved, denied, or simply left unresolved.

the Part 69 rules and highlight the need for reform to accommodate and encourage innovation."[23]

There is no regulatory or practical justification for continuation of the current two-step process for the introduction of new services. Sufficient safeguards exist which mitigate the need for a codified rate structure (e.g., the tariff review process under Section 203 of the Communications Act, investigation and suspension authority under Section 204, and the complaint adjudication authority under Section 208). These safeguards provide sufficient opportunity for oversight of new services and technologies as well as any rate structure changes LECs propose in response to competition.

The current structure also prevents attainment of the Commission's objectives by limiting a LEC's ability to meet customer demand with new and innovative service and pricing plans and to respond effectively to competition. The current rules make it impossible to achieve balanced and fair competition. This competitive imbalance may again produce inefficient and unnecessary investment by competitors as a result of expectations that the incumbent LECs will be unable (or potentially unwilling due to the burden and cost) to respond to market entry.

[23] Federal Perspectives on Access Charge Reform: A Staff Analysis at 20 (Access Reform Task Force, Apr. 30, 1993).

b. If Part 69 Waivers Are Absolutely Necessary, Then Merge Them With The Current Tariff Process With A 45-Day Time frame For Both

If the Commission chooses to continue the inefficient practice of requiring waiver or certification under the current Part 69 Rules, it should merge the waiver process into the current tariff process and perform both functions within the 45-day time frame.[24] If the new service is proposed as a Track 2 service, the timeframe should be reduced to 14 days. U S WEST proposes that this merged waiver/tariff approach include a presumption that the proposed rate elements are in the public interest, shifting the burden of proof to parties opposing their reasonableness. Such an approach provides the appropriate balance between the need for timely service offerings and the need for sufficient regulatory oversight.

5. Elimination Of Lower Service Band Index Limits And Other Pricing Flexibilities

Issue 5a: *Should we further expand or eliminate the lower service band index limits for all access services? Does there remain a danger of predatory pricing or other anti-competitive practices? Would this additional downward pricing flexibility harm any LEC customers? Would it harm competition?*

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[24] The issue of a Part 69 waiver versus a public interest finding does not appear to grant significant additional regulatory relief as a waiver under Section 1.3 of the Commission's Rules, 47 CFR § 1.3, also requires a public interest finding. A better approach would be to presume that the introduction of a new switched access rate element is in the public interest unless otherwise demonstrated by other parties. This is consistent with the Commission's statutory obligation to encourage the provision of new services and technologies in Section 157 of the Communications Act, 47 USC § 157, which states: "It shall be the policy of the United States to encourage the provision of new technologies and services to the public. Any person or party (other than the Commission) who opposes a new technology or service proposed to be permitted under this Act shall have the burden to demonstrate that such proposal is inconsistent with the public interest."

Issue 5b:	*Should we place additional limits on the ability of a LEC that decreases prices pursuant to this flexibility to subsequently increase those prices in order to preclude the potential for anti-competitive pricing strategies?*
Issue 5c:	*Are there any other pricing flexibilities which we should adopt to promote cost-based pricing? How would the proposal promote our objectives? Would added flexibilities cause competitive harm? What is the relationship between downward pricing flexibility and the varying cost, demand, and other characteristics of different geographic markets? Should additional pricing flexibilities be considered in this proceeding or in another context?*

a. The Commission Should Eliminate The Lower Service Band Index

In the move toward increasing levels of competition and market-based pricing, the elimination of the lower service band index serves to provide additional flexibility in the offering of telecommunications services. This additional pricing flexibility is important as competitors can enter the market without similar restraints. Lower service band index removal should be provided in conjunction with the Commission's proposed simplified basket structure to promote increased economic efficiency and full consumer benefit.

As the Commission noted in the Second NPRM, the current price cap plan may discourage LECs from lowering prices approaching cost in many situations as the administrative burdens associated with a below-band filing are extensive and time consuming.[25] Such instances again increase the likelihood of entry by

[25] Second NPRM ¶ 83.

inefficient service providers. Without lower pricing flexibility, the incumbent LEC cannot effectively respond to such competitive entry, and consumers are harmed by the resulting payment of above-cost rates.

The Commission has acknowledged that eliminating the lower-service band limit is not likely to increase the risk of predation.[26] As the Commission has other means and processes to effectively preclude or respond to such negative actions, no additional constraints are necessary.[27]

b. More Restrictive Upper-Band Restraints Are Inappropriate And Unnecessary After A Price Decrease

The Commission should refrain from imposing any new restraints on the upper-service band limit following a decrease in price. Full pricing flexibility is necessary to reflect cost changes in the marketplace and to ensure competitive equality. Such upper-band limits are contrary to the original intent of price caps: to allow rates to generally move toward cost. They are also inconsistent with current and proposed zone pricing flexibility which allows prices to better reflect the cost of service in various markets. The Commission's upper-limit constraint proposals appear to assume that costs will go only in a downward direction over time. This assumption may or may not be accurate. It is more accurate to assume that new constraints on the upper-band limits create disincentives for U S WEST and other

[26] Id. ¶ 81.

[27] These mechanisms include the requirement of cost support to justify below-band filings and the additional remedies available in a Section 208 complaint.

LECs to reduce prices. The Commission should avoid this potential result by permitting full pricing flexibility.

c. The Commission Should Allow Optional Zone Pricing For Switching

U S WEST believes that there is additional pricing flexibility which the Commission should adopt in this proceeding. The Commission should allow optional zone pricing to include switching, CCL, and the interconnection charge to further move the price of service toward cost. These zones should be based on MSAs rather than on wire centers as they are in Transport. MSAs are the logical areas in which to identify potential competition and competitive entry. Whereas fiber-based CAPs offering private line services are located in targeted business wire centers, as reflected in the current special access transport zones, switched-based competitors will serve larger areas better represented by MSAs. A new zone plan should define zone "A" as high density MSAs, zone "B" as medium/low density MSAs, and zone "C" as outside the MSAs.[28]

6. Revision Of The Price Cap Baskets

Issue 6a: *Would any revisions to the price cap baskets serve our goals in this proceeding? If so, explain how they would serve those goals. Would there be any adverse effects on end-users or competition?*

[28] As an example, the Phoenix, Arizona, MSA has a total of 52 wire centers: two are zone 1 offices; 15 are zone 2 offices; and 35 are zone 3 offices. This MSA corresponds to the local calling area. CAPs are currently providing service in 17 wire centers (as of May 1995) or one-third of the total number of wire centers in the Phoenix MSA. As an additional consideration, there are broadband cable systems operating in 100 percent of the Phoenix wire centers.

Issue 6b: *Under what circumstances should the price cap baskets be revised? Can revisions be planned to take place automatically on achievement of particular milestones or must they be done on an individual basis or after a periodic review? If they can be planned to take place on achievement of particular milestones, what should those milestones be? Should any individual review of the basket structure be done as part of a rulemaking proceeding? Are there any other procedures that would be appropriate?*

Issue 6c: *As competition develops at different rates for different services within different geographic markets, should different basket structures be established for a particular LEC or within a particular study area or even within a smaller geographic area?*

U S WEST supports the Baseline Basket Structure proposed by the United States Telephone Association ("USTA") in its comments in this proceeding and as attached to this filing as Attachment 1. As USTA notes in its filing, the current basket structure contains inherent flaws associated with utilization of the Part 69 service categories. USTA's approach allows for the grouping of services for equivalent functions, facilitates pricing flexibility, and readily accommodates new service offerings. USTA's Proposed Baseline Basket Structure simplifies, but does not significantly change, the current basket structure. USTA also proposes an Optional Baseline Basket Structure in the streamlining section of its comments (attached to this filing as Attachment 2). U S WEST supports the Proposed Baseline Basket Structure, but does not oppose the additional flexibility to use the Optional Baseline Basket Structure approach.

7. Consolidation Of Service Categories

Issue 7a: *Would any service category consolidations serve our goals in this proceeding? If so, explain how they would serve those goals. Would there be any adverse effects on end-users or competition?*

Issue 7b: *Under what circumstances can consolidation of service categories occur?*

Issue 7c: *If service categories are combined, how should the relevant SBIs and the SBI upper and lower limits be adjusted?*

U S WEST supports the revisions to the price cap service categories as proposed by USTA in Alternative 1 (see Attachment 1). U S WEST believes that this proposed basket and service category structure simplifies the current structure, permits pricing flexibility which is suitable for the current level of competition, and meets the Commission's goals expressed in this proceeding.

8. Further Notice Of Proposed Rulemaking In CC Docket No. 93-124

a. Operator Services

Issue 8: *Should operator services be placed in its own service category in the traffic sensitive basket or combined with another new or pre-existing service category?*

b. Call Completion Services

Issue 9a: *What is the proper price cap treatment of operator-related call completion services?*

Issue 9b: *What is the proper price cap treatment of directory assistance-related call completion services?*

As U S WEST has previously commented in CC Docket No. 93-124, no additional service categories are necessary for operator or call completion services. U S WEST opposes the creation of yet another service category with banding limits.[29] Operator services should simply be placed in the existing information category within the traffic sensitive basket.

9. No Competitive Showings Or Checklists Are Necessary For Proposed Relief

Issue 10a: *As to each proposed relaxation of regulation and pricing flexibility, should LECs be permitted to take advantage of the regulatory relief and pricing flexibility at this time or should they first have to make a showing that a certain level of competition exists before being able to use it? If a showing should be required, what should the showing be and why?*

Issue 10b: *What is the relationship between the various regulatory relief and pricing flexibilities we have proposed and should any restrictions be placed on the ability of a LEC to take advantage of one type of relief or flexibility in combination with another? Should some relief be granted only after successful implementation of other forms of relief, or are there other sequencing concerns we should consider?*

Issue 10c: *Should we impose new limits on subsequent upward pricing flexibility after a price has been reduced? If so, what should those limits be? If such limits are unnecessary, explain why they are not needed to protect consumers and to insure a competitive marketplace.*

[29] Comments of U S WEST, filed July 6, 1993.

Issue 11a: *Which of the changes discussed in Section IV.B. herein, if any, should be predicated on a demonstration that certain barriers to entry have been removed, and why? If such a demonstration should be required, should a competitive checklist be used and, if so, what should be included in it? Are there any other tests for the existence of competition that should be used to determine whether regulatory relief and pricing flexibility should be granted? Should any of the proposed changes to our price cap rules be predicated on a demonstration of actual competition or upon some other circumstances and, if so, why?*

Issue 11b: *In addition to adopting a "competitive checklist", are there other steps that need to be taken to ensure competition in the interstate access market. For example, is it necessary for the LECs to separate local bottleneck facilities, such as loops and switching, through a separate subsidiary, and to provide these facilities to all access providers at "wholesale prices"?*

Issue 12: *What is the best procedural mechanism for price cap LECs to use when seeking regulatory relief or pricing flexibility within the price cap plan?*

a. Additional Requirements For Pricing Flexibility Based On Competitive Criteria Are Unnecessary

The relaxed regulatory treatment proposed by the Commission in the previous sections is appropriate without requiring LECs to meet additional competitive criteria. Since the initial price cap proceeding, competitive entry has been enhanced by the Commission's Orders in the Expanded Interconnection and Local Transport Restructure dockets. Additional competitive criteria does not provide additional benefit to the marketplace and might be used by other parties to forestall competitive LEC offerings.

None of the proposed modifications to the price cap plan changes the basic requirements for new service introductions. The majority of the changes proposed simply modify the timelines for service review. The proposed changes provide a restructuring of the price cap baskets and service categories in better alignment with major functionalities. All of the proposed modifications are in the public interest as consumers receive the benefit of lower prices and increased marketplace efficiencies. Furthermore, reduced cycle times and decreased burdens for regulatory review make better use of both LEC and Commission personnel so that both may focus on other important and beneficial endeavors.

While LECs will benefit from the simplified administration and pricing flexibility, no competitive harm occurs. Tariffs will still be filed with sufficient notice periods, and opportunities for comment and adjudication of complaints will still be available. None of the proposals made by the Commission imposes such radical changes that additional showings are required. Most of the changes are administrative in nature, providing much needed pricing flexibility and cycle time reductions. Additional barriers are contrary to the goals of this proceeding -- easing restrictions while promoting innovation, customer benefits, and competition. The Commission should move immediately to improve the regulatory processes without imposing additional regulatory burdens.

b. If Necessary, The Commission Should Use Simple And Easily Identified Competitive Criteria

U S WEST does not believe that additional conditions are necessary for regulatory relief. However, should the Commission find that such additional burdens are appropriate, U S WEST proposes that simple, easily identifiable criteria be used. Any other approach will simply replace the current restrictions and regulatory proceedings with new restrictions and regulatory proceedings. The potential for such an occurrence should in itself provide the Commission with sufficient impetus to refrain from imposing unnecessary provisions.

10. Relevant Product Market

Issue 13: *Should we use the existing price cap service categories within the baskets to define the relevant product market?*

U S WEST supports the definition of relevant product market by Service Category within a Basket as proposed by the Commission.[30] The Service Categories were developed initially based on their fundamental relationships and consideration of cross-elasticity. The Service Categories and Basket Structure proposed by U S WEST in this proceeding do not represent a dramatic change; therefore, those fundamental relationships are preserved. As competitors enter the market, they are not likely to target a subcategory of the LECs' access services in their offerings

[30] Second NPRM ¶ 117.

to customers. Competitors are more likely to provide services designed to cover all the access needs of their customers.

11. Relevant Geographic Market

Issue 14a: *Should the Commission adopt density-based pricing zones as the relevant geographic market for assessing competition and granting regulatory relief under price caps? Should some other defined geographic area be used?*

Issue 14b: *If we condition the regulatory relief and pricing flexibility discussed in Section IV.B. on a demonstration of competitive conditions, should the relief and flexibility be allowed only in the geographic market in which the demonstration of competitive conditions has been made? How would this affect interstate toll rates? Should the relief and flexibility be permitted in an entire study area even if a demonstration of competitive conditions has been made only in a portion of the study area?*

The Commission should not use currently identified zones as the relevant geographic market, but instead should select MSAs as the basic definition for relevant markets. MSAs are commonly used and understood outside of the telecommunications industry. Other industries clearly do not use wire centers or LATAs to describe relevant geographic or market areas; even other telecommunications providers do not refer to wire centers or LATAs since those areas are relevant only to the incumbent LEC. In fact, most business people outside of the telecommunications industry probably do not know what wire centers are. The use of MSAs will benefit customers by providing a definition that they can easily understand. The use of wire centers would also create a marketing nightmare as limiting product advertising only to certain wire centers within a metropolitan area would be all but impossible. Any type of radio or television advertisement would have to include a list of the specific wire centers where the offer was available and a five-minute explanation of what a wire center is. Customer service representatives taking service orders from customers would also be hard pressed to try and explain wire-center pricing differences, especially to customers who have multiple service locations in a single city and different rates for each location. The use of MSAs would also allow the Commission and the LECs to make cross-industry comparisons and meaningful consolidations.

The use of MSAs instead of wire centers would also reduce the administrative burden on the Commission as it is currently required to assess the presence of competition in the thousands of wire centers across the country. It would also reduce the number of tariff filings to be analyzed and evaluated by the Commission.[31]

The current zones used for switched transport and special access pricing do not relate to the reality of how competitors are entering the switched access and local exchange market. Competitors select a market based on broader geographic information, and they generally serve multiple wire centers through the use of metropolitan rings and similar large scale architectures. An MSA provides the

[31] Tariff filings by wire center and specific service would require many times the number required for MSAs.

most attractive and likely point of entry for alternate service providers. The relevant geographic market should reflect such competitive areas.

III. THE SECOND GRADATION: STREAMLINED REGULATION

A. Determining Factors For Streamlined Regulation

Issue 15a: *Should demand-responsiveness be a factor in determining the level of competition for purposes of determining whether services should be streamlined? What should be the relevant factors in determining whether a LEC's customers are demand-responsive? What data and information would be necessary and relevant in determining whether a LEC's customers are demand-responsive? Does the fact that LECs have relatively few customers that account for most of their interstate access demand affect the usefulness of demand-responsiveness as a factor in determining the level of competition?*

Issue 15b: *Should supply-responsiveness be a factor in determining the level of competition for purposes of determining whether services should be streamlined? What should be the relevant factors in determining whether a LEC's competitors have enough readily available supply capacity to constrain the LEC's market behavior and inhibit it from charging excess rates? What data and information would be necessary and relevant in determining whether a LEC's competitors are supply-responsive?*

Issue 15c: *Should market share be a factor in determining the level of competition for purposes of determining whether services should be streamlined? If the Commission considers the relative market share of the LECs and their competitors as one factor in assessing the level of competition for LEC services, what data and information would be necessary to assess the relative market shares of the LECs and their competitors? What should be the relative importance of the market share of the LECs and their competitors in light of other factors incorporated into our analysis and on any other factors that may be proposed?*

Issue 15d: *Should we consider evidence that a price cap LEC is pricing services below the price cap ceiling over a sustained period of time* *as additional evidence that such services are subject to competitive pressures in markets with high supply and demand elasticities? If so, what is the competitive significance of a LEC's pricing below the price cap ceiling for such a period?*

Issue 15e: *Should the Commission consider factors other than demand responsiveness, supply responsiveness, market share, and pricing behavior in assessing the level of competition for LEC services? If the Commission considers such other factors in assessing the level of competition for LEC services, what data and information would be necessary to assess the relative importance of these factors?*

1. Streamlined Regulation Offers Essential Regulatory Freedom

The opportunity to operate under streamlined regulation represents both an important milestone of regulatory freedom for the LECs and a testimonial to the Commission's steadfast belief in increased competition through regulatory reform. Price cap regulation represented a significant improvement over rate-of-return regulation. Further removal of regulatory restrictions on the road to a fully competitive marketplace is the next logical step in the Commission's plan to achieve this important public policy goal. Streamlined regulation has been shown by AT&T to be a valuable interim step. As a market becomes more competitive, it is important to allow all competitors the opportunity to offer service quickly and to price that service efficiently according to market pressures.

2. Addressability Is The Most Appropriate Measure For Competition

The Commission has proposed a showing of actual competition for the use of streamlined regulation. It proposes an analytical framework similar to the one implemented for AT&T under its price cap plan. In that plan, substantial competition was based on considerations of demand responsiveness, supply responsiveness, market share, and pricing trends. The Commission has proposed using similar considerations for the determination of streamlined authority for the LECs.

U S WEST supports USTA in its proposal that streamlined regulation be available when the relevant market (either an MSA, state, or LEC region) is addressable by competitive suppliers as determined by characteristics of demand elasticity, supply elasticity, and, in certain cases, the presence of a certified facilities-based local exchange competitor.[32] Additional weight should be given to the presence of multiple competitors or the demonstrated intentions (affirmative marketing, construction of facilities, etc.) of additional competitors.

It is important to recognize that relief is appropriate prior to full deployment of a competitor's facilities in a given market. Should the Commission wait too long to provide relaxed regulation to the incumbent, significant competitive harm may occur in the marketplace or inefficient deployment of competitive facilities may take

[32] Addressability is defined as the immediate ability of competitors to supply additional capacity if prices rise. Second NPRM at n.207.

place. Early recognition of competition is important to establish a fair and efficient marketplace.

U S WEST proposes that competition, for the purpose of allowing streamlined regulation, be defined as an alternative source of supply available to customers within a given market. Competition would be recognized when competitive carriers were able to fulfill 25 percent of the demand for the LEC's interstate access service in any given MSA; or have demonstrated their availability with respect to 20 percent of the total market demand for interstate access services in a LEC's region.

3. MSAs Are The Appropriate Geographic Areas For The Application Of Streamlined Regulation

The Commission has proposed the use of transport zones associated with collocation as the relevant geographic area over which interstate competition should be measured.[33] U S WEST opposes such a limiting classification and instead proposes that the relevant geographic market for the purposes of streamlined regulation be divided into three distinct blocks. The first block would represent a given MSA. As discussed above, an MSA represents the most relevant geographic area over which alternative suppliers of competitive telecommunications services will build facilities and compete for customers. In keeping with U S WEST's prior proposal for the recognition of competition, when customers in the MSA

[33] Id. ¶ 120.

representing 25 percent of the demand for LEC interstate access services have an alternative source of supply, the MSA would be subject to streamlined regulation.

The second block would represent a state. A similar test of supply availability would be performed at this level to determine streamlined regulation for the state. The third block represents the entire LEC region. When the entire region reaches the 25 percent level, the LEC would be subject to streamlined regulation across its entire territory.

For LECs to be able to assess addressability, the Commission should require all common carriers to describe in their tariffs the geographic area(s) in which their services are available and a listing of which services are available in each serving area. For purposes of evaluation of competitive market areas, the Commission will presume the LECs' competitors' services are available throughout the service area they describe.

Even though U S WEST proposes the relevant market area be based on MSAs, the service area descriptions can be provided in a number of non-burdensome ways. Common carriers should include in their tariffs a listing of services available by postal zip code, city, county, LEC wire center, or by attaching service area maps filed with the tariff or with state regulatory agencies. If service area maps are on file with state commissions and are publicly available, the same maps would not need to be filed with the Commission. Tariff filings which do not specify a service area would be presumed to be available across a carrier's entire region.

4. The Commission Should Avoid Using Market Share As A Measure

The Commission should refrain from requiring a market share showing for streamlined regulation. Market share is not an appropriate or relevant measure of the availability of alternative suppliers in a given area. Supply and demand elasticity based on addressability provides a much more relevant yardstick on which to base competitive entry. The Commission noted as much in the Second NPRM, stating that "a high market share does not necessarily confer market power. A company that enjoys a very high market share will be constrained from raising its prices above cost if the market is characterized by high supply and demand elasticities."[34] Additionally, through the manipulation of market share, a competitor can take advantage of regulatory inequalities and pricing flexibility to position itself with customers while completing its buildout of an entire metropolitan area. By the time the LEC is able to show market share loss, the competitor already has a substantial competitive and time advantage detrimental to fair and efficient competition in the market. Market share is essentially a backward-looking measure inappropriate for rapidly moving competition. Addressability provides a measure which demonstrates competitive readiness and which is not subject to the same frailties as market share. Although it is almost certain that competitors will suggest a bevy of other extraneous measurements, no other factors for the recognition of competition are necessary or appropriate.

[34] Id. ¶ 143.

5. There Is No Direct Link Between Below Cap Pricing And Competition

The Commission requested comment on whether below cap pricing over time indicates that such services are subject to competitive pressures. U S WEST believes that there is no direct link between pricing below the cap over a sustained period of time and the evidence of competition. LEC price cap pricing reflects a multitude of prior decisions and analyses. The use of a below-cap pricing indicator does not reflect the formula-driven, compounding nature of price cap regulation. For example, price cap companies that elected the "no sharing" option faced a very large up-front X-Factor reduction in APIs. Such an explicit reduction, combined with earlier annual reductions, make it very difficult to sustain pricing below the cap over a significant period of time. Below cap pricing indicators also ignore implicit subsidies built into some price cap services which are necessary to offset income shortfalls generated by the required provision of below-cost services. Finally, such indicators also ignore the differences among price cap companies. Companies that have already lowered access prices (presumably through increased productivity gains) have a more difficult time driving out additional costs to be able to maintain such gains and continue below-cap pricing.

B. Contract Carriage

Issue 16a: *Should the Commission allow the price cap LECs to offer individually negotiated contracts for services subject to streamlined regulation, provided such contracts are made* *generally available to similarly situated customers under substantially similar circumstances? In particular, would allowing such contract carriage benefit consumer welfare, foster competition, and foster efficient use of the network? Would allowing such contract carriage result in unreasonable price discrimination?*

Issue 16b: *If such contracts should be allowed, what tariff filings requirements should we adopt for such contract rates? Specifically, should we require the LECs to file on 14 days' notice a tariff summarizing the contract and containing the following information: (1) the term of the contract, including any renewal options; (2) a brief description of each of the services provided under the contract; (3) minimum volume commitments for each service; (4) the contract price for each service or services at the volume levels committed to by the customers; (5) a general description of any volume discounts built into the contract rate structure; and (6) a general description of other classifications, practices, and regulations affecting the contract rate?*

1. Contract Carriage Should Be Allowed By The Commission

Contract carriage should be allowed by the Commission for LEC services subject to streamlined regulation. By mandating that such agreements be available to similarly situated customers, the Commission has effectively precluded the likelihood of unreasonable or preferential pricing. Both the LEC and its customers benefit from the increased flexibility of tailoring service offerings for specific needs. The Commission has reasonably proposed tariff filing guidelines similar to those applied to AT&T.

2. U S WEST Requests Immediate Contract Carriage Flexibility To Respond To Competitive RFPs

U S WEST requests that the Commission allow contract carriage immediately in response to multi-line customer issued RFPs where other suppliers also submit proposals. This additional pricing flexibility is required today as customers are increasingly requesting such proposals from their telecommunications suppliers. LEC competitors have the ability to package their services accordingly, while the LECs do not. This additional flexibility will provide a fair and competitive basis for such proposals to be considered.

The RFP process is a widely used business practice for acquiring goods and services. Medium-sized and larger businesses use the RFP process to identify vendors (providers) which can provide services to meet their needs. A vendor which can meet those needs at the lowest cost (with quality and other factors being additional considerations) is generally chosen. These businesses want and need vendors which can provide custom configurations with pricing flexibility. LECs need the ability to effectively respond to these customers. A significant delay in the contract tariff process provides competitors an advantage in responding to RFPs. Customers will be the ultimate losers if the Commission does not act immediately to allow the LECs to offer competitive responses to other, possibly less efficient, providers.

IV. THE THIRD GRADATION: NONDOMINANT TREATMENT

Issue 18: *Should we adopt rules now that would define the conditions LECs must meet to be considered nondominant? If so, should those conditions be what we used in Competitive Carrier, or some other conditions? Are there any reasons not to regulate a LEC as nondominant for some services and dominant for other services? Are there any reasons not to regulate a LEC as nondominant in some geographic markets and dominant in others? What procedure should a LEC follow to obtain nondominant status? What procedures would apply to a carrier that is determined to be nondominant?*

U S WEST submits that the relevant market areas and tests for supply and demand elasticity for classification of a LEC as nondominant should be the same as those associated with the qualification for streamlined regulation. The only change necessary would be to increase the addressability threshold requirement for nondominant classification. For the purpose of nondominant classification, U S WEST proposes that competition be defined as: An alternative source of supply available to customers within the given market area representing 50 percent of the demand for the LEC's interstate access services or 40 percent of the total market demand for interstate access services. As an additional measure, a LEC should also certify that it has complied with the state's requirements for open competition in the local exchange market. The management of the specific rules for local competition should be left to the state commissions. The Commission should not attempt to establish a prescribed set of local competition policies which may conflict with individual states' policies. State commissions are in a better position to address circumstances unique to their jurisdictions (e.g., subsidies, etc.). As noted previously, supply and demand elasticity measurements are the best indicators of competition. Additional measurements, including market share, are not appropriate or necessary.

V. CONCLUSION

As has been demonstrated by the Commission's previous foresight in this area, additional regulatory flexibility will provide the impetus for increases in innovation and in levels of productivity. Competition will continue to develop fairly and efficiently. And consumers will benefit from the availability of new services and additional pricing options. Based upon the foregoing, U S WEST requests that the Commission move quickly to implement the modifications suggested in these comments.

Respectfully submitted,

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